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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Final report of the Ad Hoc Working Group on Trade, Environment and Development incorporating the report on its third session

held at the Palais des Nations, Geneva,
from 6 to 10 November 1995

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Part one

FINAL REPORT OF THE AD HOC WORKING GROUP ON TRADE, ENVIRONMENT AND DEVELOPMENT

I. INTRODUCTION

A. Mandate

1. The Ad Hoc Working Group on Trade, Environment and Development was established by the Trade and Development Board in its decision 415 (XL). Its mandate is to examine, with a view to promoting sustainable development, the interlinkages between trade, environment and development and related policies, paying particular attention to the problems and special circumstances of the developing countries, including the least-developed among them. The terms of reference of the Working Group, which are reproduced in full in Annex I, contain 4 items, as follows:

1. To examine the effects of environmental policies, standards and regulations on market access and competitiveness, in particular of the developing countries and countries in transition;

2. To identify and analyse emerging environmental policy instruments with a trade impact;

3. To explore the market opportunities and implications for exporters which may flow from the demand for "environmentally friendly" products;

4. To study eco-labelling and eco-certification schemes, and possibilities for international cooperation in this field.

B. Sessions of the Group

2. The Working Group has held three sessions over a period of one year.

First session

3. The first session of the Group was held from 28 November to 2 December 1994. The Group discussed the issue of market opportunities for "environmentally friendly" products (item 3 of the terms of reference) and initiated its deliberations on eco-labelling (item 4). The discussions of the Group were aided by presentations by representatives of GATT/WTO, OECD, UNEP and ISO.

4. The Group's discussions have been reflected in the Chairman's summary contained in the report of the Ad Hoc Working Group on Trade, Environment and Development on its first session (TD/B/41(2)/5-TD/B/WG.6/3).

Second session

5. The second session of the Group, held from 6 to 9 June 1995, was devoted to a discussion on the competitiveness effects of environmental policies,

standards and regulations (item 1 of the terms of reference) and further deliberations on the trade, environmental and developmental effects of eco-labelling.

6. The Group's discussions on the first item focused on three sets of issues: (a) environmental policies and competitiveness; (b) trade and competitiveness effects of Multilateral Environmental Agreements (MEAs); and (c) future issues for research.

7. The Group's deliberations on eco-labelling focused on the following issues: (a) trade, environment, and development effects of eco-labelling; (b) the use of criteria related to process and production methods (PPMs); and (c) measures to take account of developing countries' interests in determining eco-labelling criteria.

8. The Group's discussions have been reflected in the Chairman's summary contained in the report of the Ad Hoc Working Group on Trade, Environment and Development in its second session (TD/B/42(1)/6-TD/B/WG.6/7).

Third session

9. At its third session, held from 6 to 10 November 1995, the Working Group continued its discussions on the trade and competitiveness effects of environmental policies, standards and regulations, and held a preliminary discussion on newly emerging environmental policy instruments with a trade impact (item 2 of its terms of reference). The Working Group also prepared this final report to the Trade and Development Board.

C. Implementation of the work programme

1. Scope of the Group's work

10. Since its first session, which started on 28 November 1994, the Working Group has had almost one year to complete its work. The Working Group has made considerable progress in its examination of the items included in its terms of reference. The Group also discussed possible areas for future work. The results of the discussions are reflected in Chapters II (Main findings and conclusions) and III (Recommendations) of this report. The Group feels that one year may not be sufficient to analyse and achieve a full understanding of these complex issues.

2. Interest shown in the work of the Group

11. The work of the Group has generated a considerable interest and has provided relevant inputs to work going on in other forums, in particular the WTO Committee on Trade and Environment, the Commission on Sustainable Development, the International Organization for Standardization, and the OECD joint session of trade and environment experts.

3. Documentation

12. The Working Group has been greatly assisted in its work by the high quality reports prepared by the UNCTAD secretariat (see annex III).

4. Cooperation with other international organizations

13. The work of the Working Group has benefited from the cooperation with the secretariats of other international organizations, such as the WTO, ITC, UNEP, UNDP, UNIDO, FAO, IMF, OECD and the secretariats of different multilateral environmental agreements, in particular the Basel Convention, CITES, the Ozone secretariat and the Framework Convention on Climate Change.

5. Linkage with UNCTAD's technical cooperation programme

14. The work of the Working Group has benefited substantially from policy oriented studies, carried out by researchers in developing countries and countries with economies in transition, as part of UNCTAD's technical cooperation programme on trade and environment. It also benefited from other technical assistance activities, such as the UNCTAD Workshop on Eco-labelling and International Trade (Geneva, 28-29 June 1994).

15. The country case-studies, carried out under the joint UNCTAD/UNDP and UNCTAD/UNEP projects, have provided useful empirical contributions to the work of the Working Group, as well as to other intergovernmental deliberations at UNCTAD and elsewhere.

II. MAIN FINDINGS AND CONCLUSIONS

A. Market access and competitiveness

16. The effects of environmental policies, standards and regulations on market access and competitiveness is a key issue in the analysis of the linkages between trade, environment and development. The Working Group has devoted part of both its second and third session to an examination of this topic.

17. The case-studies on the effects of environmental policies on competitiveness of developing countries are a pioneering effort to gather primary empirical data on the subject. Some of the information may be subject to change, particularly in view of the fact that some of these effects are potential, while some others are actual.

1. Environmental policies, market access and competitiveness

18. The Group's analysis of competitiveness has focused on firm level competitiveness and has covered the concept of national welfare. The difference between the short- and long-term effects were both considered, as it may be more difficult for firms in developing countries to adjust to rapid changes in environmental requirements.

19. The link between environmental policies and competitiveness is a complex one. Empirical evidence suggests that the stringency of environmental regulations has not had significant effects on the competitiveness of developed countries. On the other hand, case-studies elaborated so far show that, in a number of sectors, environmental policies and regulations have effects on competitiveness of developing countries.

20. National competitiveness (or national welfare) is not simply a linear aggregation of the competitiveness of individual firms. At the national level, any loss in competitiveness of some sectors might be compensated by gains in others, these possibilities may be higher in diversified and dynamic economies. These options, however, may be more limited in those developing countries whose export basket comprises only a few products. Possibilities may also be higher in countries with a capacity to compete in a growing international market for environment related services, equipment and technologies as well as in new market niches created by products considered as more environmentally friendly. Here the balance of advantage weighed heavily in favour of the developed countries.

21. The Working Group notes the differential competitiveness impact of environmental policies, standards and regulations on developing and developed countries. For example, the scale effects may be differentially felt by developed and developing countries. The same differentiation may be found in respect of sectors.

22. The Working Group acknowledges that environmental policies, standards and regulations may have more significant effects on small firms and in some sectors. In respect of both of these, developing countries may be more vulnerable to adverse competitiveness effects of environmental policies.

23. The Working Group observes that environmental requirements are emerging in sectors of special export interest to developing countries, such as textiles, leather, footwear, furniture, etc. Some delegations have expressed concern that gains achieved in the Uruguay Round should not be eroded by increasingly stringent environmental requirements, particularly in these sectors. Some delegations noted the potential benefits of increasingly stringent environmental requirements and that there is no reason to assume that non-discriminatory approaches to environmental issues would erode any gains achieved in the Uruguay Round.

24. The possible competitiveness effects of environmental policies can be alleviated by policies at the national and international levels. The Working Group has paid particular attention to factors such as the openness of the economy, economic growth, the capacity for technological innovation and appropriate infrastructure.

25. The Working Group acknowledges that the subject of environmental policies, standards and regulations and competitiveness could not be studied in isolation from macroeconomic conditions, environmental problems and priorities, and pressing economic and social difficulties. The Working Group recognizes that social preferences, including for the environment, differ in accordance with environmental and developmental conditions.

26. Many delegations supported and noted that the notion of proportionality at the national and international level is a complex issue requiring further attention. Other delegations questioned the utility and practicability of this concept and the necessity of such work.

27. Free trade, improved market access, and the removal of trade distortive and environmentally harmful subsidies, while necessary, may not be sufficient

to ensure environmental protection and attain sustainable development. The Working Group recognizes that measures that promote trade from developing countries can make a positive contribution to sustainable development.

2. Multilateral Environmental Agreements (MEAs)

28. Principle 12 of the Rio Declaration acknowledged that environmental measures addressing transboundary or global environmental problems should as far as possible be based on an international consensus. Multilateral Environmental Agreements (MEAs) may have positive and negative trade and competitiveness effects. The Working Group has undertaken a preliminary analysis of the Montreal Protocol on Substances that Deplete the Ozone layer, the Basel Convention on Transboundary Movements of Hazardous Waste and the Convention on Trade in Endangered Species (CITES).

29. The Group recognizes that the trade and competitiveness effects of MEAs are different for each agreement and may change according to dynamic factors such as the rate of economic growth, availability of environmentally friendly technologies and substitutes, amendments to the agreements, as well as the timely availability of finance. The interim assessments of MEAs may be a useful opportunity to take account of such changes.

30. The Group discussed the appropriateness of analysing the use of trade measures in MEAs on a case-by-case basis. A number of delegates considered that this discussion should be situated in the context of the principles of necessity, effectiveness and proportionality. Some indicated the difficulty of defining and applying these concepts and also pointed out that the primary reason why trade measures have been included is the achievement of environmental objectives.

31. The Group recognizes that positive measures could be valuable in assisting developing countries to meet the multilaterally agreed targets in keeping with the principle of common but differentiated responsibility. In this context, the Group discussed incentives that encourage trade in environmentally friendly substitutes, voluntary mechanisms on foreign direct investment and technology transfer, and market-based instruments.

B. Emerging environmental policy instruments with a trade impact

32. At its third and final session, the Working Group carried out a preliminary analysis of emerging environmental policy instruments with possible trade effects. The Group stressed the importance of transparency and the need to establish appropriate transitional provisions to allow foreign producers to adjust to newly emerging requirements.

33. Some delegations stressed the need to promote cooperation in the establishment of competent accreditation and certification bodies and appropriate schemes for mutual recognition to facilitate participation in and compliance with environmental management systems (EMS), in particular ISO 14001. Other delegations indicated the complexity of the issue and suggested that additional analysis was necessary.

C. Market opportunities for "environmentally friendly" products

34. With respect to "environmentally-friendly" products (EFPs), the Working Group acknowledges that environmental concerns and policies may generate market opportunities, but may also create a barrier to trade.

35. The Working Group acknowledges that it is difficult to identify and define EFPs. Given that no product is absolutely environmentally friendly, it is essential to ensure that environmental claims be credible, take account of consumer and producer interests and support fair competition. In this context, environmental labelling may be an important way for increasing the credibility of environmental claims and for facilitating exports of EFPs, including from developing countries and countries with economies in transition.

36. The Working Group notes that more work is needed to specify ways and means by which the credibility of environmental claims could be better substantiated. The Working Group considers that technical assistance is useful in establishing mechanisms for certifying such claims and for facilitating the exports of EFPs from developing countries. Also such promotion measures as endorsement by environmental or consumer groups and third-party certification by national or international standardizing bodies could be useful.

D. Eco-labelling

37. Eco-labelling programmes are established essentially for environmental purposes. While providing information to consumers they provide an opportunity for producers to differentiate and market products on the basis of their environmental attributes. This may spur innovation and increase the competitiveness of eco-labelled products. Many delegations expressed the concern that eco-labelling may result in discrimination against foreign products despite the voluntary nature of eco-labels.

38. The Working Group stresses for eco-labelling to be more sensitive to differing environmental and developmental conditions in different countries. In this context, some discussion in the Working Group has focused on the appropriateness, effectiveness and cost-efficiency of eco-labels in the context of the country of production. Some delegations have cautioned against the proliferation of eco-labelling schemes and feel that an analysis of costs and benefits of eco-labelling schemes in terms of their trade, environment, and development effects would be useful. The Working Group also feels that its analysis of eco-labelling could be of some assistance in the context of the examination of other voluntary instruments.

<u>The life-cycle approach and the use of PPM-related criteria</u>

39. The Group notes that specific process-related criteria may not be as effective and relevant in terms of environmental protection in the exporting country as they are in the importing country. In this context, differences in environmental conditions and the development dimension are important factors.

40. Different views have been expressed in the Working Group regarding the role of establishing specific PPM-related criteria. Some delegations questioned whether eco-labels, which may not take account of different environmental conditions in the country of production, can provide relevant information. According to some others, the use of PPM-related criteria is necessary to provide information to the consumer and to maintain the credibility of eco-labels.

Trade effects

41. Technology-based criteria or criteria which are based on the environmental conditions and priorities of the importing country can negatively affect imports, particularly from developing countries, where environmental and developmental conditions are substantially different from those in the importing country.

42. The costs involved in complying with eco-labelling criteria can be high for developing country producers, particularly for small and medium-sized firms. Some delegations expressed the view that there are potential gains. The Group acknowledged that both developed and developing countries can be affected, in some cases developing countries may be at more of a disadvantage.

Environmental effects

43. As regards the extent to which eco-labels have contributed to reducing environmental stress and unsustainable consumption patterns in developed countries, there have been few systematic studies assessing the environmental effects of such labels. The potential contribution that eco-labels in the developed countries can make to reducing environmental stress in developing countries may be limited on account of a range of factors.

Transparency

44. The Working Group acknowledges that improved transparency of eco-labelling schemes is an important element in addressing potential adverse trade effects of such schemes.

Developing countries' concerns

45. The Working Group notes that eco-labels are being increasingly used in sectors of export interest to the developing countries. This trend has generated concern in developing countries. In the Working Group, many delegations from developing countries have questioned the rationale for establishing eco-labelling criteria for products that are principally imported, in particular when such criteria relate to the use of specific materials or process and production methods (PPMs). Developing countries emphasized that the benefits for sustainable development accruing from improved access to developed countries' markets for goods and services far outweigh whatever impacts trade-related environmental measures may have.

III. RECOMMENDATIONS

46. The Working Group recommends that the work of UNCTAD on trade, environment and development is pursued at an adequately high level in the future structure of the organization, after UNCTAD IX. The Working Group recommends a number of areas for future UNCTAD activities within the theme "trade, environment and development".

A. Recommendations at the national and international level

47. With a view to promoting sustainable development, and paying particular attention to the special circumstances of the developing countries, in particular the least developed among them, the Working Group has identified the following policies and measures, for consideration by Governments.

48. Positive measures such as improved market access, improved access to finance, transition mechanisms, access to and transfer of technology, capacity-building and special provisions for small firms and for some sectors, are effective instruments in supporting developing countries and countries in transition in their efforts to meet the objectives of sustainable development.

49. The Working Group endorses the commitment to UNCED Agenda 21 and Principle 12 of the Rio Declaration that "unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures to address transboundary and global problems should as far as possible be based on international consensus". These principles also extend to unilateral import restrictions based on PPM-based requirements.

50. The Working Group firmly rejects demands sometimes made to introduce so-called green countervailing duties or other protectionist or WTO inconsistent trade measures, to compensate for negative competitiveness effects, whether real or perceived, of environmental policies.

51. It is important to ensure appropriate transparency of newly emerging environmental policy measures with possible trade effects, including eco-labelling, inter alia by considering inputs from interested countries. The Working Group invites eco-labelling organizations to take the fullest possible account of developing countries' interests. The Working Group also invites national Governments and standardization bodies to explore the scope for mutual recognition and equivalencies at an appropriate level of environmental protection.

52. Trade provisions in MEAs should be transparent and should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

53. The Working Group emphasizes the importance of foreign direct investment in developing countries in order to promote sustainable development.

54. Due account should be taken of the role of different environmental and developmental conditions in environmental policy-making, particularly in reconciling national with international concerns. Efforts should also be made

to identify win-win situations and in designing and implementing policies that maximize the mutual supportiveness of trade and environmental policies.

B. Areas for future work

55. The Working Group recommends a number of areas for future UNCTAD activities within the theme "trade, environment and development". The secretariat's work on these areas should be organized so as to accord adequate attention to each issue identified.

56. Further work on the competitiveness effects of environmental policies, standards and regulations could focus on sectoral, cross-country studies. Such studies could include sectors that produce low-value-added products, and those that produce homogeneous products of export interest to developing countries. Consideration is also suggested of the competitiveness effects of new and emerging environmental policies, standards and regulations in sectors of export interest to developing countries, including where removal of trade barriers has been negotiated in the Uruguay Round.

57. Further work could focus on the short- and long-term competitiveness effects of environmental policies on small and medium-sized firms, taking into account their importance in the exports of developing countries, and in particular the least developed among them.

58. Further analytical and empirical work is required on positive and negative trade and competitiveness effects of MEAs, taking due account of the ongoing work of UNEP. This should be carried out in parallel with an analysis of facilitating mechanisms and incentives under different MEAs.

59. Empirical work on exports of domestically prohibited goods (DPGs) could add value to the work being done elsewhere, if it could examine the coverage of existing/proposed instruments (for example, UNEP's Prior Informed Consent system) to determine if the issue has been sufficiently dealt with from the perspective of the developing countries, including the least developed among them.

60. There should be studies on the environmental and competitiveness effects of distortions in the price-setting mechanisms and of such economic instruments as subsidies and taxes. Studies are also needed on the effects of tariff escalation on the environment of developing countries.

61. Empirical studies which focus on the transfer of environmentally sound technologies, including those necessary to meet external environmental measures and requirements, inter alia through international cooperation and support, particularly with regard to developing countries, would be useful.

62. The Working Group recommends that conceptual and empirical studies are needed to examine ways in which developing countries can attract and foster direct investment in environmentally sound technologies.

63. Analysis of the issues of equivalencies and mutual recognition is recommended, including under the joint UNCTAD/UNEP programme of work. In this context, UNCTAD could focus on the development aspects of these concepts in dealing with non-product related PPM issues.

64. Future UNCTAD work on environmental management systems (EMS) could be conducted involving the analysis of (1) rationale for different types of EMS standards (to be carried out in conjunction with UNEP); (2) trade effects of the proliferation of different EMS standards that are not considered to be equivalent (for example ISO 14001 and EMAS); and (3) factors affecting and means to improve the participation of developing countries in EMS standards, development and application.

C. Technical assistance

65. The Working Group encourages donors to consider providing assistance to developing countries, particularly the least developed among them, and countries in transition, to help them in defining, certifying, and promoting trade in "environmentally-friendly" products (EFPs), national capacity building, and in promoting sustainable development.

66. Technical assistance is further needed to facilitate the effective participation of developing countries in future international deliberations on eco-labelling and in the process of the International Organization for Standardization (ISO).

67. The Working Group encourages UNCTAD to continue its technical assistance programme, particularly in promoting a better understanding of the linkages between trade, environment and development through its conceptual, empirical and analytical work. This could contribute to the informed and effective participation of developing countries in international deliberations.

68. The Working Group encourages the UNCTAD secretariat to continue its work on the adjustment of the Trade Control Measures database to include environmental measures with possible trade effects, as well as to further develop the GREENTRADE computer software programme in order to allow countries to access this information.

69. The Working Group considers that the country case-studies constitute a relevant tool in examining the effects deriving from the linkages of environmental and trade policies, both at the national and international levels. The Working Group encourages the continuation of these studies by UNCTAD in cooperation with UNDP and UNEP.

ANNEXES

Annex I

CHAIRMAN'S SUMMARY*

1. The third session of the Ad Hoc Working Group on Trade, Environment and Development agreed on a number of main findings and conclusions and recommendations, as well as identified areas for further work. These are contained in the final report of the Working Group. However, the Working Group also discussed some important issues where no full consensus was reached at this stage. Such issues are reflected in this Chairman's summary.

2. Most delegations considered that further conceptual and empirical case studies might help to clarify the possibilities for weighing the potential costs and trade impacts of an environmental measure or requirement against its potential benefits in other policy areas. These delegations indicated that it could be useful in better assessing the potential impact on countries, in particular developing countries, facing measures and requirements based on foreign non-product related PPMs. These delegations indicated that such studies could be carried out in conjunction with other relevant organizations.

3. With regard to environmentally sound technologies, some delegations expressed the view that incentives should be designed to promote investments in such technologies in developing countries, including in the context of foreign direct investment and in the framework of MEAs.

4. Most delegations stated that the establishment of special positive measures to help small and medium-sized enterprises to adjust to environmental policies should be considered as part of future work on SMEs.

5. As to the future examination of the trade and competitiveness effects of Multilateral Environmental Agreements, it was mentioned that such work could in particular focus on the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Convention on International Trade in Endangered Species in Wild Fauna and Flora, the Convention on Biological Diversity, and the United Nations Framework Convention on Climate Change.

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* Annexed to the final report by decision of the Ad Hoc Working Group at the 4th (closing) meeting of its third session, on 10 November 1995.

Annex II

TERMS OF REFERENCE AND PROGRAMME OF WORK OF THE AD HOC WORKING GROUP ON TRADE, ENVIRONMENT AND DEVELOPMENT*

The Trade and Development Board,

Recalling General Assembly resolution 1995 (XIX), as amended, and "A New Partnership for Development: the Cartagena Commitment", adopted at the eighth session of the United Nations Conference on Trade and Development, as well as paragraph 38.26 of Agenda 21 which recognizes that "UNCTAD should play an important role in the implementation of Agenda 21 ... taking into account the importance of the interrelationships between development, international trade and environment and in accordance with its mandate in the area of sustainable development",

Referring to Agenda 21, and particularly paragraph 2.21 which requests Governments to strive to make international trade and environmental policies mutually supportive in favour of sustainable development through relevant multilateral forums, including GATT (WTO) and UNCTAD,

Taking note that the Trade and Development Board, at the first part of its fortieth session, focused UNCTAD's role on policy analysis and debate, conceptual work, the building of consensus among member States on the interaction between environmental and trade policies, the dissemination of information to policy makers and encouragement and provision of assistance in capacity building,

Decides to establish an Ad Hoc Working Group on Trade, Environment and Development to examine, with a view to promoting sustainable development, the interlinkages between trade, environment and development and related policies, paying particular attention to the problems and special circumstances of the developing countries, including the least developed among them, with the following terms of reference:

1. To examine the effects of environmental policies, standards and regulations on market access and competitiveness, in particular of the developing countries, especially the least developed among them, and countries in transition, taking into account the financial and technological implications;

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* Trade and Development Board conclusions and decision 415 (XL) of 27 May 1994, annex, section I.

2. To identify and analyse emerging environmental policy instruments with a trade impact, bearing in mind the need for international cooperation towards ensuring transparency and coherence in making environmental and trade policies mutually supportive;

3. To explore the market opportunities and implications for exporters which may flow from the demand for "environmentally friendly" products, taking into account the benefits and costs associated with reducing the negative environmental effects of production processes and consumption. The work of the Working Group will initially consider ways and means to define and certify environmentally friendly products;

4. To study eco-labelling and eco-certification schemes, and possibilities for international cooperation in this field, taking into account the trade and sustainable development interests of producing countries, particularly developing countries and countries in transition. The work of the Working Group will initially focus on:

(a) a comparative analysis of current and planned schemes, with a view to discussing concepts such as mutual recognition of eco-labels and equivalencies between environmental objectives and criteria;

(b) an examination of the possibilities for taking into account the interests of developing countries in the elaboration of eco-labelling criteria.

5. The Working Group should identify for consideration areas in which technical cooperation should be strengthened.

6. The work of the Working Group should be coordinated with that of other Committees and Working Groups, including the Standing Committee on Commodities.

7. The Working Group may recommend for the consideration of the Board the establishment of expert groups.

8. The work of the Working Group should complement that of other international bodies, while seeking to ensure that no duplication occurs. The Working Group should consider ways to promote interaction between UNCTAD and other intergovernmental and regional organizations working in this field, taking into account the relevant decisions of the second meeting of the Commission on Sustainable Development.

9. The Working Group shall complete its work before the ninth session of the Conference. It may submit interim reports and shall submit its final report on the results of its work to the Trade and Development Board.

10. The Working Group plans its work schedule according to established practice, bearing in mind the workload and the need to finish before the ninth session of the Conference.

Annex III

REPORTS OF THE AD HOC WORKING GROUP AND DOCUMENTS PREPARED BY THE UNCTAD SECRETARIAT

Reports of the Ad Hoc Working Group

- Report of the Ad Hoc Working Group on Trade, Environment and Development on its first session (TD/B/41(2)/5-TD/B/WG.6/3).
- Report of the Ad Hoc Working Group on Trade, Environment and Development on its second session (TD/B/42(1)/6-TD/B/WG.6/7).

Reports prepared by the UNCTAD secretariat

- Eco-labelling and market opportunities for environmentally friendly products (TD/B/WG.6/2, 6 October 1994).
- UNCTAD's technical cooperation programme on trade and environment (TD/B/WG.6/Misc.1, 21 November 1994).
- Report on the workshop on eco-labelling and international trade, (TD/B/WG.6/Misc.2, 21 November 1994).
- Trade, environment and competitiveness aspects of establishing and operating eco-labelling programmes (TD/B/WG.6/5, 28 March 1995).
- Environmental policies, trade and competitiveness: conceptual and empirical issues (TD/B/WG.6/6, 29 March 1995).
- A statistical overview of selected eco-labelling schemes (TD/B/WG.6/Misc.5, 2 June 1995).
- Newly emerging environmental policies with a possible trade impact: a preliminary discussion (TD/B/WG.6/9, 28 August 1995).
- The policy debate on trade, environment and development (TD/B/WG.6/10, 12 September 1995).
- The policy debate on trade, environment and development: a statistical annex (TD/B/WG.6/10/Add.1, October 1995)
- Trade, environment and development, lessons from empirical studies: the case of Colombia (TD/B/WG.6/Misc.6, 25 October 1995).
- Trade, environment and development, lessons from empirical studies: the case of India (TD/B/WG.6/Misc.7, 31 October 1995).

- **Trade, environment and development, lessons from empirical studies: the case of Zimbabwe (TD/B/WG.6/Misc.8, 31 October 1995).**
- **Trade, environment and development, lessons from empirical studies: the case of Brazil (TD/B/WG.6/Misc.9, 3 November 1995).**
- **Trade, environment and development, lessons from empirical studies: the case of Poland (TD/B/WG.6/Misc.10, 6 November 1995).**
- **Newly emerging environmental policies with a possible trade impact: a preliminary discussion. A statistical annex (TD/B/WG.6/9/Add.1, 6 November 1995).**

Part two

REPORT OF THE AD HOC WORKING GROUP ON TRADE, ENVIRONMENT AND DEVELOPMENT ON ITS THIRD SESSION

INTRODUCTION

1. The third session of the Ad Hoc Working Group on Trade, Environment and Development was held at the Palais des Nations, Geneva, from 6 to 10 November 1995. In the course of the session, the Ad Hoc Working Group held four plenary meetings. 1/

Tribute to the memory of Mr. Yitzhak Rabin

2. At its opening plenary meeting, on 6 November 1995, the Working Group observed a minute of silence in tribute to the memory of Mr. Yitzhak Rabin, Prime Minister of Israel, who had been assassinated on 4 November 1995.

Opening statement

3. The **Secretary-General of UNCTAD** said that environmental protection should rank high among the priorities of national Governments in both developed and developing countries, although the pace and detail of national regulation should be left to Governments. While environmental policies on trade and competitiveness need not be negative, they could be positive if there was adequate technological progress, innovation, openness of markets, economic growth, and a climate which fostered expanded exports, particularly from developing countries. The problems became even more complex when the development dimension was added to this trade and environment interface. Developing countries had a problem of allocating resources between different priorities, including poverty alleviation, but it was also a question of judging whether responding to certain trade-related environmental measures met their own development and environmental priorities. A unit of investment in infrastructure often yielded far higher marginal benefits to the environment than a comparable unit of investment in pollution abatement. In addition, responding to environmental concerns of third countries because of a need to trade with them might at times be of limited benefit for developing countries.

4. Regarding global environmental problems, he said that trade measures were sometimes used to enforce the environmental commitments undertaken by parties to multilateral environmental agreements (MEAs). It might be questioned whether their effects were equal on parties. In cases where there were differentiated effects between developed and developing countries, they should not undermine the principle of "common but differentiated responsibilities". Moreover, MEAs had seldom analysed how the use of trade measures could have differential effects on developing and developed countries.

5. He suggested that the deliberations of the Working Group could concentrate on policy initiatives required in the area of trade, environment and development. Trade policies might better meet the objectives of environmental protection; and environmental policies that responded to local environmental objectives, resource and technological constraints, could be implemented most effectively. Similarly, development policies which

integrated environmental concerns might be more successful in meeting environmental objectives. Thus the value added of this Group's deliberations would be to bring the very important development dimension into the interface between trade and environment. The Group might wish to recommend the future work programme of UNCTAD on the issue of trade, environment and development. Any such future work should reflect upon the role of trade policies, such as the elimination of trade distortive subsidies, the role of trade-related intellectual property rights, the effects of tariff escalation, the role of trade in domestically prohibited goods and other such measures in the protection of the environment.

Chapter I

ENVIRONMENT, INTERNATIONAL COMPETITIVENESS AND DEVELOPMENT: LESSONS FROM EMPIRICAL STUDIES

(Agenda item 2)

and

NEWLY EMERGING ENVIRONMENTAL POLICIES WITH A POSSIBLE TRADE IMPACT: A PRELIMINARY DISCUSSION

(Agenda item 3)

6. For its consideration of agenda item 2, the Ad Hoc Working Group had before it the following document:

"The policy debate on trade, environment and development" - report by the UNCTAD secretariat (TD/B/WG.6/10 and Add.1).

For its consideration of agenda item 3, the Ad Hoc Working Group had before it the following document:

"Newly emerging environmental policies with a possible trade impact: a preliminary discussion" - report by the UNCTAD secretariat (TD/B/WG.6/9).

7. The Director-in-charge of the International Trade Division, introducing the secretariat's reports, said that the question of impact of environmental requirements on export competitiveness had specific features in the case of developing countries, stemming on the one hand, from the sectoral composition of developing countries' exports and, on the other, from scale factors, notably the participation of small and medium sized enterprises in foreign trade. With regard to sectoral composition, there were indications that environmental requirements were emerging in sectors of export interest to developing countries, such as leather, footwear, textiles, etc. With regard to scale, the report found that in many developing countries SMEs had a relatively large share in total exports. He pointed out that environmental requirement could have differential effects on firms, depending, for example, on the size of the firm, and that SMEs could have greater difficulties in complying with environmental requirements than larger firms.

8. The issue of competitiveness should be considered not only in terms of possible increased costs, but also in terms of possible price premiums. However, as developing-country firms often produced homogeneous products, their possibilities for product differentiation were more limited than for firms in the developed countries. This, coupled with the absence of a significant domestic market for "environment-friendly" products, implied that, at least in the short run, the competitiveness effects on developing-country firms were likely to operate principally through cost factors. However, there were more optimistic elements in the analysis. For example, developing countries could mitigate any negative competitiveness effects through increased openness, innovation and sustained economic growth.

9. With regard to multilateral environmental agreements (MEAs), the report, while stressing their important contribution to addressing global environmental problems, indicated that the economic effects on developing countries could be significant. There was thus a need for positive measures, such as the Multilateral Fund under the Montreal Protocol. The report also suggested that, in practice, the economic effects on developing countries might be higher or lower than predicted at the time the agreements entered into force, depending on factors such as the rate of economic growth, availability of substitutes for controlled substances, technological progress, and amendments to the agreements. This pointed to the need for interim evaluations, including of the facilitating mechanisms aimed at assisting developing countries in meeting multilaterally agreed targets.

10. With regard to item 3, he observed that newly emerging environmental policy instruments were applied principally in the context of "product policies" and included, for example, producer's responsibility, recycled content requirements, product taxes and border tax adjustments, voluntary industry agreements, information-based instruments and public sector purchasing. Reference was also made to bans on products containing certain substances. The Working Group might wish to discuss which of these instruments could have significant effects and what kind of policies could be designed to mitigate the negative and strengthen the positive effects. The preliminary analysis pointed to the fact that a number of newly emerging policy instruments were based on the life cycle approach and that standards based on process and production methods (PPMs) might be a point for discussion. Voluntary measures played an important role and, despite being voluntary, might nevertheless have significant trade effects.

11. With regard to development policies, it could be observed that the effects of environmental policies might be similar to or exacerbate those arising from constantly changing conditions in the marketplace, such as changes in technology, consumer preferences, price, and availability of raw materials. Thus, as already suggested in the previous discussion on "positive measures", development policies, including technological and financial cooperation and export promotion programmes often helped developing countries to adapt to environmental regulations while maintaining export competitiveness.

12. From a trade policy perspective two questions arose: first, whether environmental policies resulted in discrimination against imports and served protectionist purposes; and second, whether the policy instrument chosen was the least trade-restrictive. Product requirements might be difficult to meet for foreign producers because of lack of environmental infrastructure and of technology, and, at least in the short run, development measures were not available inasmuch as environmental requirements might not correspond to local environmental and developmental conditions and priorities. The issue of transparency, including notification of emerging policies to trading partners, was also an important issue. There might also be solutions in the area of environmental policy-making itself. In the field of eco-labelling it had generally been acknowledged that it was useful to explore concepts such as mutual recognition and equivalencies.

13. The spokeswoman for the **Group of 77 and China** (Colombia) said that this Working Group was distinctive from other such forums, because it specifically incorporated the dimension of development and there might be a need to examine the necessity and effectiveness of the use of trade measures on a case-by-case basis. It might be questioned whether the use of trade measures against non-parties to MEAs was relevant for the achievement of the environmental objectives. In these cases, it could be reasonably argued that the use of trade measures was neither necessary not effective. A full analysis of such secondary effects might need to be conducted before the implementation of an MEA. In addition, dynamic factors such as the rate of growth, export expansion, availability of technologies and environmentally friendly substitutes would determine whether such secondary effects could be mitigated. It was recognized that developing countries might often face greater difficulties in implementing the obligations undertaken under MEAs in keeping with the principle of "common but differentiated responsibilities". Whether enabling mechanisms which were put in place actually helped developing countries was a moot point and needed constant review by the parties. It might also be necessary to examine the validity of introducing positive measures such as investment-related mechanisms, relaxation of intellectual property rights and other such market-related mechanisms to facilitate the task of developing countries.

14. She noted with concern that environmental measures surveyed by the secretariat report were proliferating and might have a significant effect on trade from developing countries. Most of these measures were formulated without consulting trading partners, and a number of them incorporate PPMs. There was little analysis of either their cost-effectiveness or their environmental effectiveness. For example, it could be questioned whether these regulations or emerging policies would result in commensurate environmental benefits in developing as well as in developed countries and whether environmental benefits resulting from such policies were proportionate to the trade and development effects that they could impose.

15. The Group of 77 wished to make the following recommendations, as part of the proposed solutions for merging trade environment and development concerns. As a first step in mitigating some of the adverse effects that might arise from environmental measures, the Group of 77 proposed that such measures be made transparent and be formulated in consultation with trading partners where they had significant trade effects. Secondly, international cooperation and technical assistance was of great value in promoting an understanding of environment-related measures and of their trade effects. Thirdly, on the more substantive side, special mechanisms might be needed to reduce the vulnerability of small-scale firms and products from some specific sectors. Fourthly, a closer examination of environmental measures with a view to ensuring that the benefits were proportional to the cost of imposing the measures might be required. The principle of "proportionality" was already embedded in the notion of least trade restrictiveness in the WTO and in some form or other in the MEAs. It was also implicitly invoked in the formulation of national environmental policy-making, for example: the toxic chemical register in the United States had decided not to include some chemicals and products containing these chemicals because it was felt that the environmental benefits might be insignificant in comparison to the cost involved in evaluating their effects. The notion of proportionality could be used to

prioritize national environmental policies, and also to decide which environmental policies with significant trade effects might be changed in favour of others, and finally to decide whether trade measures should be used in the context of MEAs.

16. The representative of **India** said that his concerns on the market access effects of environmental policies were based on the strong belief that the benefits for sustainable development accruing from increased market access for developing-country goods and services far outweighed any small environmental effects. The secretariat report on newly emerging environmental policies left his delegation with a strong feeling of "déjà vu". In this very forum, his delegation had repeatedly urged that environmental policy measures should be based on "proportionality" and recognized GATT principles such as least trade restrictiveness, MFN and national treatment. He urged UNCTAD to continue to analyse the trade and environment impacts of these emerging instruments and fully endorsed the proposal contained in paragraph 119 of TD/B/WG.6/9 to initiate discussions on certain principles which should be taken into account in the design and implementation of such instruments. The Asian region was the most vulnerable to trade related environmental policies and he felt strongly that such policies should not be used as non-tariff measures.

17. It was a curious coincidence that most environmental measures with trade effects were emerging in sectors where developed countries were losing their comparative advantage and developing countries had increased market shares. In sectors where a large proportion of imports in developed countries came from developing countries, analysis of the "economic cost associated with different levels of risk" should factor in the impact on developing-country producers of environmental measures. One corollary of this would be that technical cooperation programmes that addressed transfer of technology, training and information exchange must form part of the cost analysis.

18. SMEs accounted for a large percentage of exports in sectors which were becoming vulnerable to environment requirements. He strongly supported the conclusions contained in paragraphs 70-75 of the report, in particular on special measures for SMEs regarding exemptions, financial and technical assistance, FDI and other positive incentives.

19. MEAs should take fully into consideration the special developmental requirements of developing countries, include positive incentives to encourage timely investment and technology transfer and, above all, the timely flow of financial resources. In cases where there were no transboundary effects, standard setting should be left to national Governments.

20. It was his firm conviction that the benefits from the Uruguay Round should not be eroded by environmental measures. Even if these measures were legally permissible there was a need to question whether such measures were justified economically and environmentally. He called upon UNCTAD to initiate work on a set of principles for voluntary measures like eco-labelling; on technology transfer codes that allowed exemptions from TRIPS and related regimes on environmentally sound technologies; and on voluntary investment codes that facilitated investment in environmentally sound technologies (ESTs). Finally, he called for increased commitments at the international

level to support the efforts of developing countries to improve infrastructure and to alleviate poverty as well as to strive for the reduction of sustainable consumption patterns in the developed countries.

21. The representative of **Bangladesh** observed that the linkages between trade, environment and development were quite complex. While environmental issues were important both for developed and developing countries, the relative importance of environmental stress among countries varied, depending upon their stage of development and their industrial or agricultural base. Only with increased incomes would there be security and opportunity to invest in environmental protection, provided it is profitable. TD/B/WG.6/10 showed that developing countries were concerned that environmental standards were emerging in those sectors where comparative advantage was shifting from developed to developing countries, e.g. textiles, footwear, electronics and furniture. Further, the comparative advantage of developing countries lay in labour-intensive, low-value-added products which were now becoming subject to environmental regulations in OECD countries. Positive measures were needed to support the developing countries in order to induce them to move towards environmental standards.

22. The secretariat report TD/B/WG.6/9 raised the question of an appropriate balance between environmental benefits and possible adverse trade effects. Such measures should neither favour protectionism nor distort the trade prospects of developing countries. He believed that environmental management systems should be carefully studied in order to avoid adverse effects on competitiveness. In-depth study and analysis was needed for the design and implementation of environmental policies and instruments so as to mitigate adverse trade effects. Consensus-building was essential before the application of environmental policies and regulations.

23. He feared that if developing countries assumed the additional costs of enforcing environmental standards, the comparative advantage they now enjoyed would be compromised in some economic activities. Moreover, many developing countries assigned greater priority to expansion in current output than to improvement of environmental quality. This would require an increase in the flow of external resources which should not be treated on a par with development assistance. He felt that the environmental standards sought after in developed countries, which had both higher standards of living and higher levels of environmental degradation, should not be imposed on the developing countries, particularly the LDCs. It was also important to change consumption patterns. The best way to address international environmental problems was through international cooperation, international support for capacity building, technology transfer, and financial and technical assistance for developing countries. It was necessary to include these elements in the TBT Agreement and Code of Good Practice. There was a need for timely notification and transparency, keeping in view the developmental, financial and trade needs of the developing countries. Quoting The Economist (London), he said that the insistence that free trade required countries to have similar labour and environmental standards was tantamount to asking for all comparative advantages to be eliminated before trade even began.

24. The representative of the **United States of America** commended the secretariat on the thoughtful reports it had prepared. The secretariat had

obviously put a great deal of effort into building up the environmental side of its analysis. He believed that trade measures had been included in MEAs primarily in order to achieve the environmental objective. He therefore found peculiar the suggestion that the inclusion of trade measures in an international agreement which had been negotiated in an open multilateral setting might not respect Principle 7 of the Rio Declaration. With respect to the Basel Convention, he said that it would have been interesting to have been given a sense of the competitiveness effects of 1994 Decision on North/South trade in terms of its impact on technology transfer and investment in the recycling of hazardous wastes.

25. Turning to the conclusions on MEAs, he said that he had a sense that the report attempted to draw overly broad conclusions from the information presented. He doubted whether there was a reasonable basis to conclude that trade and competitiveness effects of MEAs might be relatively high for developing countries. He had serious reservations about the concept of "compensatory mechanisms" in MEAs. The purpose of the special provisions was not "compensation"; they were simply a reflection of common but differentiated responsibilities. He also questioned the basis for the assumption that MEAs with trade measures had greater competitiveness effects than those without them and noted that in the secretariat's analysis of the competitiveness impacts of the Montreal Protocol it appeared that the major impacts arose from the agreement's controls on production and consumption rather than from its trade provisions. He felt also that there was a false dichotomy between positive measures and trade-restrictive measures, which were not mutually exclusive options. Negotiators of an MEA might decide that either, both, or neither, were needed. He also said that it was not possible to reach an informed conclusion that positive measures would always be needed. Indeed, some agreements, by their very nature, might be positive measures in and of themselves. Nor did he see a basis to conclude that MEAs should provide a mechanism for interim assessments. Certainly all MEAs had governing bodies that kept under review the implementation and effectiveness of all elements of their respective agreements.

26. With respect to the secretariat's paper on emerging policies, he thought the Working Group was not the appropriate forum to be speculating on the coverage or interpretation of WTO rules.

27. Regarding speculations on how recycled content requirements might relate to the TBT Agreement's preference for performance standards over design, he pointed out that the TBT Agreement did not require the use of performance standards, since it recognized that this approach was not always practical or appropriate. Similarly, he did not believe that UNCTAD was the appropriate forum to speculate on the meaning of the Uruguay Round Agreement on Subsidies and Countervailing Measures regarding taxes on energy, or to examine the relationship of voluntary industry agreements to the WTO. He did not support the statement that "The TBT Agreement would not allow countries to apply domestic non-product-related PPMs to imported products" and said that in fact there had never been such a finding in the WTO, but that all the case law that had developed over the years on PPMs related to Article III of the GATT. The issue of the coverage of PPM-type measures under the TBT Agreement was being looked at by a joint working group comprised of the WTO Committee on Trade and Environment and the Committee on Technical Barriers to Trade.

28. The representative of **Mexico** suggested that the Chairman's summaries from the first two sessions of the Working Group should form an integral part of the final report of the Group.

29. On the question of competitiveness, her delegation wished to make the following observations:

(a) It was clear that export competitiveness was determined by a number of factors, such as differences in capital cost, technologies, infrastructure, taxes on research and development, etc.

(b) The final report of the Group should reflect the fact that in OECD countries environmental policies had little effect on competitiveness. The Group should reiterate one of the conclusions contained in the report on trade and environment of the Council of Ministers of the OECD, presented to the Group during its second session, which firmly rejected demands made on certain occasions to introduce so-called green countervailing duties or any other form of protectionist measures incompatible with WTO agreements, to compensate for the negative effects of environmental policies on competitiveness, either real or perceived.

(c) Competitiveness could not be studied only at the level of isolated sectors and firms but should also be analysed at the country level, which included possible losses as well as possible gains in different firms and sectors. This applied not only to those sectors and firms that found it necessary to adapt to new environmental requirements, but also to those sectors and firms that were planning to supply new markets for equipment, services, know-how and technologies called for by the new environmental requirements. The analysis of the impact of new environmental requirements on competitiveness should therefore cover all sectors and both negative and positive impacts should be taken into account. She supported the conclusion of the report of the secretariat that for achieving a given environmental objective, the question was not only whether firms lost or gained competitiveness, but also whether these effects could be mitigated by more cost-effective environmental instruments or policies.

30. In relation to the level of profitability and efficiency of adaptation in certain countries to external environmental policies and requirements, she said that complying with external environmental requirements could be far from profitable, particularly when they affected PPMs and were based on circumstances, needs, and priorities, as well as the environmental and social conditions of the importing country imposing these measures. In this context, she suggested that the idea of proportionality as well as the concept of necessity and effectiveness should be expanded and incorporated into the formulation of environmental policies.

31. With respect to competitiveness effects at the national level, developing countries whose firms were forced to comply with foreign standards or requirements could be particularly vulnerable to new environmental requirements, because of both external and domestic factors. She stressed the

importance of factors such as sectoral composition, the firm structure and infrastructural limitations, as well as the difficulties in gaining access to capital and technology to make the necessary adaptations.

32. As for possible solutions, she suggested that the Group consider the ideas set forth in paragraphs 73 to 75 and 142 to 146 of the secretariat report (TD/B/WG.6/10), particularly the identification and determination of positive measures and incentives.

33. With regard to MEAs, she suggested that the concept of proportionality be discussed in the context of the use of trade measures and also that the recommendations in paragraph 147 of the report be explored.

34. Referring to the report on newly emerging environmental policies with a possible trade impact (TD/B/WG.6/9), she stressed that transparency and consultations in the formulation of environmental policies were fundamental to the adoption of such instruments. Her delegation was concerned about voluntary measures and environmental management systems, including ISO 14001, and their impact on markets. In this area it would be helpful to consider mechanisms for enhancing the participation of developing countries in the formulation of such new measures so that concerns regarding quality and differentiated responsibility of their firms were not excluded from these major instruments.

35. The spokesman for the **African Group** (Egypt), referring to the difference in the competitiveness impacts of similar environmental policies on developing and developed countries, said that these policies had differential effects on different sectors, and varied also depending on the size of enterprise within these sectors. More stringent environmental requirements were emerging in sectors of export interest to the developing countries, such as textiles, leather and footwear. Thus gains in market access expected from the Uruguay Round Agreements might be eroded by more stringent environmental standards. Complying with specific external environmental policies might divert scarce resources in developing countries from more pressing environmental problems which yielded higher marginal returns. One third of the value of total exports and around half of the value of manufactured exports of developing countries originated in sectors which were potentially affected by environmental requirements. Tariff escalation impeded market access for processed raw materials and other products, adding to the difficulties of economic diversification and limiting the potential resources that might be used for environmental protection. Bans that were applied on the basis of the precautionary principle because of the difficulty and expense of conducting risk assessment were also a source of concern. So was the increasing recycled content and recycling requirements facing exports of developing countries.

36. He endorsed the conclusions in paragraph 25 of TD/B/WG.6/10. Further analysis was necessary if developing countries were to benefit from the experience of industrialized countries in this respect. Developed countries were questioning whether policies could be formulated in such a way as to minimize competitiveness effects and whether environmental objectives could be achieved by more cost-effective environmental instruments or policies. There should be a balance between environmental benefits and adverse trade effects of environmental policies, and environmental policies should pass the test of

necessity, effectiveness and least trade-restrictiveness. There should be full ex-ante consultations with developing countries before environmental requirements affecting their exports were introduced. The potential for expanding SMEs exports from developing countries was very large, since they exported only a small share of their total output. SMEs in developing countries should be assisted to achieve this objective. In this regard, there was a need to study the relation between TRIPs, technology transfer and the impact on the environment.

37. He outlined some positive measures which would blend and balance environmental and development objectives. Among these were:

(a) Alleviating sectoral vulnerability through specific policies on foreign direct investment and the further exploration of the concept of proportionality;

(b) Enhanced transparency and greater efforts to move towards mutual recognition;

(c) Studying the possibility of introducing special measures for SMEs;

(d) Technical assistance and technology transfer;

(e) Studying the adequacy of the facilitation mechanisms in MEAs on a case-by-case basis.

38. He believed that the idea of incentives to encourage investment in environmentally-friendly alternatives in MEAs deserved further study. As for emerging policy instruments that were increasingly based on life cycle analysis involving PPMs, there were no well established mechanisms for consultation or notification of these policies among trading partners.

39. The representative of **Switzerland** said that the report on competitiveness now represented a more balanced viewpoint than at the previous session. Developed countries would continue to develop their environmental policy, and it was dangerous to suggest that there was a link between increased environmental awareness and reduced competitiveness in developed countries. In fact, it was the consumers in the industrialized countries who demanded that environmental aspects be taken into account in the production of goods. This was an element that exporters had to consider, but that could also be used as a sales argument. It was misleading to say that there was no demand for environmentally friendly products in developing countries, the problem being that most often the consumers in these countries did not have a choice between more or less sustainably produced goods. It was not necessarily more difficult for SMEs than for large companies to adapt to new requirements, because the investments required in SMEs were often proportionately smaller, and because SMEs were often considered to be more flexible than large companies.

40. She observed that, although it would seem that the comparative advantage of developing countries lay in the production of labour-intensive goods with low value added, one should be careful not to limit these countries to sectors that were probably insufficient for achieving true economic development that

was sustainable. Especially in the medium and long term, the interests of developing countries were not served by setting them differentiated standards, nor by granting them permanent exemptions. Everything should be done to ensure the effective participation of developing countries in the design of international standards in the contexts of the ISO and MEAs. Also, developing countries should be assisted in achieving the objectives set in MEAs through technical and financial assistance and improved transparency of environmental measures, and by allowing special adaptation periods. Foreign direct investment could help developing countries to meet the challenges set by new environmental requirements, but to attract such investment it was necessary to create an environment favourable to investment. Structural factors were very important in this respect, and one of these factors was environmental protection.

41. Finally, she expressed the view that UNCTAD was not the appropriate forum to discuss whether trade policies in MEAs were necessary and efficient.

42. The spokesman for the **Latin American and Caribbean Group** (Venezuela) said that Latin American and Caribbean countries had taken a pro-active stand and were moving towards improved environmental management, based on domestic environmental and developmental conditions and priorities. They had set priorities for themselves, based on the development potential of each country. He was concerned at the emergence of more stringent environmental requirements, especially those based on process and production methods (PPMs), since these multilateral standards were at variance with the international trade system as regulated by the WTO.

43. With respect to competitiveness and the size of the companies, he said that large firms in the region found it easier to comply with stringent environmental requirements than small and medium-sized firms and that it was necessary to implement positive measures at the national and international levels. It was necessary to analyse the potential environmental benefits to be derived from the removal or reduction of trade-distortive subsidies.

44. Concerning MEAs, he saw a need to analyse the trade and competitiveness effects on developing countries as a whole and on a case-by-case basis. Although MEAs were important in tackling global environmental problems, the economic effects on developing countries could be significant. His Group supported the idea of implementing positive measures, such as the Multilateral Fund under the Montreal Protocol. This pointed to the need for interim evaluations and other positive measures to assist developing countries in meeting multilaterally-agreed targets.

45. Concerning the newly emerging environmental policy measures that might have negative or positive effects on trade, he observed that newly emerging policy instruments were increasingly based on life cycle analysis involving the PPMs issue and were mostly voluntary in nature. The measures based on recycled content provisions were important for a number of Latin American countries. Also some of these measures might affect products of export interest to developing countries, but there was uncertainty about their trade and environmental effects since developing countries did not know how the business sector and consumers would react.

46. Finally, he noted that there were no well established mechanisms for notification and consultation with trading partners, and improvements were necessary in this area as well as in the matter of international cooperation. His Group supported the idea of notifications and ex-ante transparency, and technical and financial assistance on a multilateral and bilateral basis.

47. The representative of the **United Nations Development Programme** (UNDP) stated that UNDP had financed 15 of the country case studies currently under way, some of which were presented to the Working Group, and had collaborated closely with UNCTAD in the execution of the joint project. She believed these country case studies formed a good foundation for understanding the practical implications of the complex relationships between trade and the environment. The findings were indicative of the kind of problems which could arise, each study presenting a special case. One conclusion of the first set of studies was that most solutions to the problems of reconciling trade and environment were not found in the trade regime or in the relaxation of environmental policies.

48. She felt that the developmental dimension had not been sufficiently explored in the current set of case studies, nor had it been necessarily envisaged from the outset. Yet it was in development that solutions should be sought: i.e. through capacity-building, through the creation of an enabling and empowering environment, through technological transfer and adaptation, and through the provision of better, more accurate and timely information.

49. UNDP was encouraged to see that the studies had in themselves been capacity-building. In many cases, the issues had not been on the table before the case studies had been undertaken. Now, local teams of experts had become very knowledgeable about these issues. The studies had also led to institutional changes in some countries and inter-ministerial task forces had been established to examine the issues. This was the first step on the road to integrating the conclusions of analytical work into the overall planning process. It was not enough to know how trade policies and practices affected the environment, and how environmental policies - domestic or international - affected the trade potential. This knowledge had to be translated into appropriate responses in economic planning, in industrial planning and in natural resource management planning.

50. UNDP planned to continue activities in the area of trade, environment and development, where its focus would continue to be on capacity-building. This included capacity to analyse the issues in a domestic and international context; capacity to recognize potential implications and to seek appropriate policy options; capacity in government to create the necessary enabling and empowering environment for the reconciliation of trade and environment policies; and capacity in the private sector to obtain and use timely and accurate information, and to respond to changes and potential opportunities.

51. UNDP promoted multi-stakeholder approaches to addressing complex issues, including the public and private sectors, civil society and academia. Each group had a different perspective to bring to the debate. She hoped that UNDP, in collaboration with other international organizations such as UNCTAD, would be able to stimulate multi-stakeholder discussions and solutions at the country level.

52. The representative of **China** said that the adoption of numerous international and national environmental regulations and the close link with competitiveness was double-edged: on the one hand, it reflected the importance that various countries attached to environmental protection; on the other, there was the risk of abusing environmental regulations as a means of erecting new trade barriers.

53. He agreed with the conclusions in TD/B/WG.6/10 on the impact of MEAs on trade and competitiveness. Although relevant international conventions had taken into account the realities of developing countries and these countries had obtained some benefits, such as delayed phase-out in the production and use of controlled substances to the year 2010, these conventions and protocols had not taken into account the impact on relevant exports of developing countries. The developing countries would find it difficult to produce substitutes in conformity with the provisions of the conventions around 1996. The export of many controlled substances and related products affected by developing countries using old technologies would face great challenges.

54. He noted that the system of eco-labelling had a significant impact on the export of many products from developing countries. Owing to great differences in environmental standards and limitations at the financial and technological level, it was in general very difficult for enterprises of developing countries to obtain eco-labelling. These enterprises would have to use inputs, which might increase their costs and affect their international competitiveness. If they could not obtain eco-labelling, their exports would not be able to compete with similar products of other countries which had obtained eco-labelling, and their market access would be compromised. He added that cost internalization could seriously affect the competitiveness of exports from the developing countries.

55. He claimed that many multinationals in developed countries had transferred a large number of pollution-intensive industries to developing countries. Many of these multinationals had adopted double environmental standards, causing serious pollution in those countries.

56. He felt that MEAs aimed at protecting the environment would not necessarily conflict with the rules and principles of multilateral trade. They should be implemented on the basis of transparency, justice and non-discrimination.

57. The international community should take into account the historical process of development and the difficulties faced by developing countries today, and the international community should formulate the necessary policies and adopt effective measures for helping developing countries to improve the competitiveness of their products while raising the standards of environmental protection, thus contributing to the prosperity of the world economy and enhanced environmental protection.

58. The representative of **Cuba**, referring to the discussions on competitiveness and environmental policies, said that most of the difficulties faced by the developing countries in adapting to strict environmental measures arose on account of deteriorating trade relations and lack of financial resources, together with the protectionist and discriminatory measures sometimes adopted in the developed countries. There was a need for more studies on the economic impact of environmental measures and, in particular,

those affecting products of interest to developing countries. UNCTAD's technical assistance programme on trade and environment was important in helping countries to understand environmental policies and to ways to reduce the negative impact on the exports of developing countries. He welcomed the work done so far and expressed thanks to UNCTAD, UNEP and the WTO for their support in a national seminar on trade, environment and development held in Havana in July 1995. He called upon donor agencies to provide financial resources for this work.

59. Finally, he said that Cuba would continue to make great efforts to safeguard the environment despite its difficult situation as a result of the economic blockade imposed on Cuba by the United States of America, which was being maintained even though it had been rejected in a recent resolution adopted by the vast majority of countries in the United Nations General Assembly.

60. The representative of Venezuela said that the effect on competitiveness of adaptation to new environmental measures was more significant for firms in developing countries than for firms in developed countries. He recalled the Chairman's summary of the second session in which he had pointed out that liberalization of international trade was an important element contributing to the adoption of more favourable environmental measures at the national level. He felt that progress could be made if developed countries took into account the concept of mutual recognition for environmental priorities and measures taken by developing countries when setting up their environmental policies. There was a need to consider transitional periods for the adaptation of developing countries to new environmental requirement as well as possible preferential treatment for exports of environmentally-friendly products coming from developing countries. Firm size was also an important factor because SMEs had more difficulties than did large companies in adapting to new environmental requirements. He noted with concern that more stringent environmental measures were emerging in those sectors of export interest to developing countries, such as textiles, leather and footwear. Endorsing the conclusions contained in paragraph 57 of the secretariat's report (TD/B/WG.6/10), he said that the major difficulties faced by SMEs in complying with environmental measures included insufficient access to inputs, information, technology, finance, and lack of infrastructure. Finally, he expressed the need to take into account the notion of proportionality between environmental benefits and economic costs that might already be inherent in the formulation of environmental policies.

Action by the Ad Hoc Working Group

61. At the final plenary meeting, on 10 November 1995, the Ad Hoc Working Group adopted its final report on the work of UNCTAD on trade, environment and development, containing, inter alia, main findings and conclusions, recommendations at the national and international level, areas for future work and technical assistance (subsequently circulated in a preliminary version in TD/B/WG.6/L.7). 2/

62. At the same meeting, the Working Group took note of an oral summary made by the Chairman on his own authority and agreed to annex the text of the summary to its final report. 3/

Chapter II

ORGANIZATIONAL MATTERS

A. Opening of the session

63. The third session of the Ad Hoc Working Group was opened on 6 November 1995 by Mr. B. Ekblom (Finland), Chairman of the Ad Hoc Working Group.

B. Bureau of the Ad Hoc Working Group

64. At its opening plenary meeting, on 6 November 1995, the Working Group elected Mr. M. Shaheedullah (Bangladesh) as Rapporteur to replace Mr. B. Alipour (Islamic Republic of Iran), who was unable to attend the third session. The Bureau for the third session was thus as follows:

Chairman:	Mr. B. Ekblom	(Finland)
Vice-Chairmen:	Mr. Y. Afanassiev	(Russian Federation)
	Mr. B. Diekmann	(Germany)
	Mr. S. Djajadiningrat	(Indonesia)
	Mrs. R. Mrabet	(Tunisia)
	Mr. G. Thielen Graterol	(Venezuela)
Rapporteur:	Mr. M. Shaheedullah	(Bangladesh)

C. Adoption of the agenda and organization of work

65. At its opening meeting, on 6 November 1995, the Ad Hoc Working Group adopted its provisional agenda (TD/B/WG.6/8) as follows:

1. Adoption of the agenda and organization of work

2. Environment, international competitiveness and development: lessons from empirical studies

3. Newly emerging environmental policies with a possible trade impact: a preliminary discussion

4. Other business

5. Adoption of the report of the Ad Hoc Working Group on its third and final session to the Trade and Development Board in accordance with paragraph 9 of the Group's terms of reference.

D. Adoption of the report of the Ad Hoc Working Group on its third and final session to the Trade and Development Board in accordance with paragraph 9 of the Group's terms of reference

(Agenda item 5)

66. At its closing plenary meeting, on 10 November 1995, the Ad Hoc Working Group adopted the draft report on its third session (TD/B/WG.6/L.6 and Add.1) and authorized the Rapporteur to complete the report as appropriate.

Notes

1/ For the terms of reference of the Ad Hoc Working Group on Trade, Environment and Development, see Trade and Development Board decision 415 (XL): Mid-term review (annex), in TD/B/40(2)/26.

2/ For the Final Report, see Part one above.

3/ For the Chairman's summary, see Part one, annex I.

Annex

ATTENDANCE*

1. The following States members of UNCTAD were represented at the third session:

Algeria
Argentina
Australia
Austria
Bangladesh
Brazil
Canada
China
Colombia
Costa Rica
Cuba
Czech Republic
Democratic People's Republic of Korea
Denmark
Egypt
Ethiopia
Finland
France
Germany
Greece
Honduras
Hungary
India
Indonesia
Iran (Islamic Republic of)
Japan
Kenya
Madagascar
Mexico
Netherlands
Nigeria
Norway
Pakistan
Peru
Philippines
Poland
Portugal
Republic of Korea
Russian Federation
Saudi Arabia
Sweden
Switzerland
Thailand
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Uruguay
Venezuela

2. The following other States members of UNCTAD, were represented as observers at the session:

Angola
Bolivia
Bulgaria
Cameroon
Chile
Ecuador
El Salvador
Iraq
Ireland
Italy
Myanmar
Nepal
New Zealand
South Africa
Spain
Sudan
Togo
Trinidad and Tobago
Zambia
Zimbabwe

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* For the list of participants, see TD/B/WG.6/INF.3.

3. The following were represented at the session:

Department of Policy Coordination and Sustainable Development
United Nations Environment Programme
United Nations Development Programme
United Nations Framework Convention on Climate Change
The International Trade Centre UNCTAD/WTO

4. The following specialized agencies and organizations were represented at the session:

Food and Agriculture Organization of the United Nations
United Nations Educational, Scientific and Cultural Organization
International Monetary Fund
United Nations Industrial Development Organization
The World Trade Organization

5. The following intergovernmental organizations were represented at the session:

Arab Labour Organization
Commonwealth Secretariat
European Community
International Textiles and Clothing Bureau
Organisation for Economic Co-operation and Development
Organization of African Unity

6. The following non-governmental organizations were represented at the session:

General Category

International Alliance of Women
International Chamber of Commerce
International Council of Environmental Law
International Federation of Business and Professional Women
International Organization for Standardization
World Federation of United Nations Associations

Special Category

Fundación Futuro Latinoamericano

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